

session to consider Executive Calendar No. 84, the nomination of Frederick J. Kapala to be a U.S. district judge, there be 20 minutes of debate equally divided between the chairman and ranking member of the Judiciary Committee or their designees, and at the conclusion or yielding back of time, the Senate vote without any intervening action on the nomination; that the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR STAR PRINT—S. 1138

Mr. BROWN. I ask unanimous consent that S. 1138 be star printed with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BY SENATE LEGAL COUNSEL AUTHORIZATION

Mr. BROWN. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 189 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 189) to authorize testimony and legal representation in the District of Columbia v. Ellen E. Barfield, Eve-Leona Tetaz, Jeffrey A. Leys, and Jerome A. Zawada.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution concerns a request for testimony and representation in actions pending in the Superior Court for the District of Columbia. In these actions, anti-war protesters have been charged with unlawful assembly for refusing repeated requests to leave Senator MCCAIN's Washington, DC., office on or about February 5, 2007. Trials of these defendants are scheduled to commence on May 11, 2007. The prosecution has requested that a member of the Senator's staff who had conversations with the defendants during the events in question testify in this case. Senator MCCAIN would like to cooperate by providing testimony from his staff. This resolution would authorize that staff member, and any other employee of Senator MCCAIN's office from whom evidence may be required, to testify in this action, with representation by the Senate Legal Counsel.

Mr. BROWN. I ask unanimous consent that the resolution be agreed to, the preamble agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 189) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 189

Whereas, in the cases of District of Columbia v. Ellen E. Barfield (Cr. No. 07-3133), Eve-Leona Tetaz (Cr. No. 07-3144), Jeffrey A. Leys (Cr. No. 07-5009), and Jerome A. Zawada (Cr. No. 07-5088), pending in the Superior Court for the District of Columbia, testimony has been requested from Katie Landi, an employee in the office of Senator John McCain;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Katie Landi and any other employees of Senator McCain's office from whom testimony may be required are authorized to testify in the cases of District of Columbia v. Ellen E. Barfield, Eve-Leona Tetaz, Jeffrey A. Leys, and Jerome A. Zawada, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Katie Landi and other employees of Senator McCain's staff in the actions referenced in section one of this resolution.

#### EXPRESSING CONDOLENCES TO GREENSBURG, KS

Mr. BROWN. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 190 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 190) expressing the condolences of the Nation to the community of Greensburg, Kansas.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 190) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 190

Whereas, on Friday, May 4, 2007, a tornado struck the community of Greensburg, Kansas;

Whereas this tornado was classified as an EF-5, the strongest possible type, by the National Weather Service, with winds estimated at 205 miles per hour;

Whereas the tornado is the first EF-5 on the Enhanced Fujita scale, and the first F-5 on the previous scale since 1999;

Whereas approximately 95 percent of Greensburg is destroyed;

Whereas 1,500 residents have been displaced from their homes; and

Whereas, in response to the declaration by the President of a major disaster, the Administrator of the Federal Emergency Management Agency has made Federal disaster assistance available for the State of Kansas to assist in local recovery efforts: Now, therefore, be it

*Resolved*, That the Senate expresses the condolences of the Nation to the community of Greensburg, Kansas, and its gratitude to local, State, and National law enforcement and emergency responders conducting search and rescue operations.

#### MEASURE READ THE FIRST TIME

Mr. BROWN. I understand that S. 1312, introduced earlier today by Senator DEMINT and others, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 1312) to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

Mr. BROWN. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

#### ORDERS FOR TUESDAY, MAY 8, 2007

Mr. BROWN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m., Tuesday, May 8; that on Tuesday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders reserved for their use later in the day; that there then be a period of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the first half under the control of the majority and the second half under the control of the Republicans; that at the close of morning business, the Senate resume consideration of S. 1082; that on Tuesday, following the vote on the judicial nomination, the Senate stand in recess until 2:15 p.m., in order to accommodate the regular party conference meetings; that all time during any recess, adjournment, and period of morning business count postcloture, and that any time used in morning business by any Member be charged against their hour postcloture; provided further that Members have until 10:30 a.m. Tuesday to file any second-degree amendments, notwithstanding rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT

Mr. BROWN. If there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand adjourned under the previous order, following the remarks of the Senator from Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

## IMMIGRATION REFORM

Mr. SESSIONS. Mr. President, I hope we are not moving forward with a plan that would introduce the immigration bill we considered in the Senate last year. That is what I am hearing. I believe there are talks ongoing today—bipartisan talks—talks in which the White House and other members of the President's Cabinet are participating where they are at least talking about a framework of a comprehensive immigration reform of which we could be proud.

The bill that was introduced last year was fatally flawed. It was not the kind of legislation we should have passed. If it had been passed, it would never have worked and would have been an embarrassment to the Senate. I cannot say how strongly I believe that to be true. There was no way we could repair that bill by amendment. I talked about that last year. It was important that we start over with a new piece of legislation. We worked on it, and a majority of the Republicans in the Senate, last year, voted against the bill. The House refused to even consider it. They would not take it up. Four Democrats voted against the bill last year.

So the only way to enact comprehensive immigration legislation is to start over and write a new bill on which both the Democrats and a majority of Republicans can agree. Until this week, I had hopes that was ongoing. I have not been in the detailed negotiations, but I have been briefed on some of the framework for reform that, to me, is very consistent with what I pleaded with my colleagues last year to do.

Now, over the past several weeks, up to 10 Members of the Senate have been actively meeting to write a new bill. They started with the principles laid out by the White House in a 23-page Powerpoint that promptly got leaked. Maybe they wanted it leaked. I don't know. Those Powerpoints just have one or two lines. They do not have fine print. But they do set fourth agenda items and principles.

The principles laid out in that Powerpoint are much closer to a bill I could support and I think the American people would be willing to support.

This is what they included in that presentation. Although I am not involved in the details, I think it is what Members are discussing at this moment—have been discussing, at least. Apparently, people periodically walk

away from the discussions, and they say this isn't good enough or I don't like this, but that is negotiation, hopefully, and we can work forward with it. Let me just tell you some of the things that are in this bill that were not in last year's legislation.

There is an enforcement trigger. Before any new immigration programs or green card adjustments could begin, the principles in the Powerpoint would require an "enforcement trigger" to be met. Senator ISAKSON from Georgia offered that. He basically said: We are not going to trust you this time—the American people are not. We want to see that you follow through on the things that are critical to a lawful immigration system before we pass the green card adjustments and deal with those other issues.

It also requires that the Border Patrol be increased to the numbers agreed upon—with a total of 18,300. It is one thing to say we are going to authorize 18,000 Border Patrol agents, which I think is a minimum, really not sufficient to cover the border—but it is an increase of significance. We are not going to go forward with the bill until you actually hire them and put them on the payroll and train them and they are out there.

Also, 200 miles of vehicle barriers and 370 miles of fencing must be constructed. We talked about that, and I offered the amendment. It passed several times and eventually was passed last year.

The catch and release at the border must be ended. This idea of catching people at the border who have violated our immigration laws and have come into the country illegally—they are being taken inland, taken before some administrative officer or judge and released on bail and asked to come back. Well, 95 percent are not showing up. That is what they wanted to do: to be brought into America. They were released on bail. Nobody ever went out and found them or looked for them. It is just a broken system. It is not working. Those are things that are part of the trigger as to what has to be fixed before we go forward with the legislation. That would be in the principles.

The future flow of temporary workers is critical. As to the future flow temporary worker program, the so-called Y visas—the principles outline a new program for truly temporary workers. The White House plan would admit new workers for 2 years and could be renewed three times, for a total of 6 years.

Between each 2-year period, workers would be required to return to their home countries for 6 months. Workers could not bring their spouses or their children but could return home to visit them if they choose. They would be able to go back and forth as often as they liked. There is no cap specified in the White House plan, but the plan envisions an annual cap set by the Secretary of Homeland Security in consultation with the Secretaries of Labor

and Commerce, depending on American needs.

Workers would be eligible to apply for green cards through regular channels. Regular channels are adjusted to a more merit-based system. It would include a merit-based system. I think this is a great improvement over last year's legislation. But I have to tell you, I am concerned about people coming to stay more than 1 year because I think it becomes more and more difficult for them to leave. They are less likely to leave. Many of them are more likely to violate the law and just embed and stay. I think a 1-year plan would be far better. But those are things that are being talked about which would be substantially better than last year's legislation.

There is a seasonal worker program that makes much more sense than what was in last year's bill. The principles also contain a "new and improved" seasonal worker program that would combine the current agricultural—the H-2A plan—and unskilled—H-2B—seasonal worker programs. We combine those two programs, as they should be combined, because they are each for temporary workers.

Workers could remain in this country for 9 months at a time, under this proposal, and would be required to return to their home countries for 3 months in between. This is a temporary worker program that appears to be actually temporary, unlike last year's legislation, in which the temporary guest worker program in last year's immigration bill said an individual could come to this country temporarily, but they could bring their wife and children. They could come for 3 years. That 3 years could be extended again and again and again. And they could apply for citizenship within the first year they got here. That was the temporary worker program last year. How broken was that? It would never have worked. People bring their children, they get settled in the country, a decade goes by. Who is going to be able to ask them to leave? What kind of painful scene would that be? Teachers, preachers, family members, neighbors—they have gotten to know people. They have a whole new mindset, an incorrect mindset.

The bill, last year, said "temporary guest worker program," and this is what it was. It was really a permanent entry into the country for very extended periods of time where it could be difficult for people to leave.

Under this plan, the outline that is being discussed, they could actually work—and it is what I suggested last year—and spouses and children would remain in the worker's home country.

Renewals under the seasonal program would be unlimited, which may be problematic. We would need to discuss that some.

But these workers would also be eligible to apply for green cards under regular channels, if they are willing to compete against others on a merit-